

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Lei Yu

Serial No.: 09/626,616

Filed: July 27, 2000

For: POLYNUCLEOTIDE ENCODING MU
OPIOID RECEPTOR

Group Art Unit: 1647

Examiner: R. Landsman

Attorney Docket, No.: INDA:005USD1/GNS

CERTIFICATE OF MAILING
37 C.F.R. 1.8

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on the date below:

10/12/2001

Date

Gina N. Shishima

DECLARATION OF LEI YU, PH.D.

UNDER 37 C.F.R. § 1.131, REGARDING SEQUENCE SUBMISSION OF BARE

I, Lei Yu, hereby declare as follows:

1. I am the inventor of the above-referenced patent application.
2. I understand that the United States Patent and Trademark Office Examiner has identified a nucleic acid sequence in the GenBank submission of HSU12569 for part of a human mu opioid receptor variant mRNA ("Bare sequence submission") (Exhibit 1). This sequence was identified in Sequence Comparison B and C in the rejection under 35 U.S.C. § 102(b) over the reference of Wang *et al.*, which does not relate to GenBank submission HSU12569.
3. I am submitting this Declaration to set forth that I invented the relevant subject matter of the claimed invention prior to any July 24, 1994 Bare sequence submission.

4. Without conceding the relevance of the Bare sequence submission, I present evidence showing that I cloned and sequenced cDNA corresponding to SEQ ID NO:7 and encoding SEQ ID NO:8 at least as early as any July 24, 1994 submission to GenBank by Lane A. Bare. Attached as Exhibit 2 is part of a notebook from my laboratory confirming the nucleic acid that corresponds to SEQ ID NO:7 and the amino acid sequence (human μ opioid receptor), which corresponds to SEQ ID NO:8 of the present application. Dates are redacted. These pages evidence that my lab obtained the relevant sequences at least as early as July 24, 1994, independently of any work in the Bare sequence submission.

5. The work described in Exhibit 2 was conducted in the United States.

6. Therefore, the Bare sequence submission is not evidence of prior art against the above-referenced patent application.

7. I hereby declare that all statements made of my own knowledge are true and all statements made on information are believed to be true and further that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application or any patent issued thereon.

Date: October 17, 2001



Lei Yu, Ph.D.